

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 17, 2020 appellant, then a 53-year-old city carrier assistant, filed a traumatic injury claim (Form CA-1) alleging that on March 14, 2020 she sustained a shoulder sprain, shoulder dislocation, and frozen shoulder when carrying a mail satchel on her right shoulder while in the performance of duty. On the reverse side of the claim form appellant's supervisor acknowledged that she was injured in the performance of duty.

In support of her claim, appellant submitted literature on how to care for a shoulder sprain and frozen shoulder exercises.

Appellant also submitted an unsigned letter dated March 25, 2020 from an emergency department, which noted that she was seen by a provider and could return to work in three days.

In a development letter dated April 21, 2020, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to submit the necessary evidence.

In a letter dated April 28, 2020, the employing establishment controverted appellant's claim, explaining that she had not worked from December 7, 2019 through March 13, 2020 and that her alleged injury occurred on the day she returned to work. Appellant, however, did not report her injury until April 17, 2020. The employing establishment also noted that she filed an occupational disease claim (Form CA-2) on March 23, 2020 for a shoulder sprain, which she stated occurred on March 13, 2020.

By decision dated May 26, 2020, OWCP denied appellant's claim as the evidence submitted was insufficient to establish that the incident occurred, as alleged. It concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

Appellant submitted a letter dated May 5, 2020 from Dr. Milliardaire Syverain, an internal medicine specialist. The letter was partially legible, but noted a right shoulder and right foot injury at work.

On June 10, 2020 appellant timely requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review, which was held on October 6, 2020. The hearing representative afforded appellant 30 days to submit additional evidence.

In response, appellant submitted a medical note dated July 23, 2020 from Michelle Buchholz, a family nurse practitioner. Ms. Buchholz related that appellant had experienced intense pain in her right shoulder while carrying a postal bag in March. She indicated that appellant may have sustained a torn rotator cuff.

OWCP received a medical note dated August 24, 2020 from Dr. Alma Sanchez, a family medicine specialist. Dr. Sanchez noted that appellant had pain in her right shoulder radiating down her arm and that she had reported carrying mail on her right shoulder. She related that appellant had decreased range of motion of the right shoulder. Dr. Sanchez noted possible diagnoses as frozen shoulder or rotator cuff injury.

In a progress note dated October 8, 2020, Dr. Sanchez assessed right shoulder pain and related that it remained unchanged. She also stated that an x-ray of appellant's right shoulder revealed normal joint findings, but with possible degenerative changes of the humeral head.

By decision dated December 8, 2020, OWCP's hearing representative modified OWCP's May 26, 2020 decision and found that the March 14, 2020 employment incident occurred, as alleged, but denied appellant's claim, finding that causal relationship had not been established between her right shoulder pathology and the accepted employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. The first component to be established is that the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place, and in the manner alleged. The second component is whether the employment incident caused a personal injury and can be established only by medical evidence.⁷

The medical evidence required to establish causal relationship between a claimed specific condition and an employment incident is rationalized medical opinion evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

³ *Id.*

⁴ *F.H.*, Docket No. 18-0869 (issued January 29, 2020); *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *L.C.*, Docket No. 19-1301 (issued January 29, 2020); *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *P.A.*, Docket No. 18-0559 (issued January 29, 2020); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *T.H.*, Docket No. 19-0599 (issued January 28, 2020); *K.L.*, Docket No. 18-1029 (issued January 9, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

⁸ *S.S.*, Docket No. 19-0688 (issued January 24, 2020); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

nature of the relationship between the diagnosed condition and specific employment factors identified by the employee.⁹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to the accepted March 14, 2020 employment incident.

In a May 5, 2020 letter, Dr. Syverain related that appellant had sustained a right shoulder injury at work. As this report lacked medical rationale establishing causal relationship, it is insufficient to establish appellant's claim.¹⁰

Appellant submitted medical notes dated August 24 and October 8, 2020 from Dr. Sanchez, which related that appellant was seen for right shoulder pain. In her August 24, 2020 report, Dr. Sanchez noted possible diagnosis of frozen shoulder or rotator cuff tear. In her October 8, 2020 report, she assessed right shoulder pain and noted possible degenerative changes of the humeral head. However, Dr. Sanchez did not offer an opinion on causal relationship. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship¹¹ As such, these reports from Dr. Sanchez were insufficient to establish a diagnosed right shoulder condition causally related to the accepted employment incident.

Appellant also submitted a progress note dated July 23, 2020 from Ms. Buchholz, a family nurse practitioner. Certain healthcare providers such as physician assistants, nurse practitioners, and physical therapists are not considered physicians as defined under FECA.¹² Consequently, Ms. Buchholz' report will not suffice for purposes of establishing entitlement to FECA benefits.¹³

OWCP also received a letter dated March 25, 2020 from an emergency department which was unsigned. The Board has held that reports that are unsigned or bear an illegible signature cannot be considered probative medical evidence as the author cannot be identified as a

⁹ *T.L.*, Docket No. 18-0778 (issued January 22, 2020); *Y.S.*, Docket No. 18-0366 (issued January 22, 2020); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

¹⁰ *P.C.*, Docket No. 18-0167 (issued May 7, 2019).

¹¹ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹² 5 U.S.C. § 8101(2) provides that physician "includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law," 20 C.F.R. § 10.5(t). *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (January 2013); *see also M.F.*, Docket No. 19-1573 (issued March 16, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

¹³ *See M.C.*, Docket No. 19-1074 (issued June 12, 2020) (nurse practitioners are not considered physicians under FECA).

physician.¹⁴ Therefore, this document has no probative value and is insufficient to establish the claim.

Finally, OWCP received literature from the appellant on how to care for a shoulder sprain and frozen shoulder exercises. The Board has, however, long held that excerpts from publications have little probative value in resolving medical questions unless a physician establishes the applicability of the general medical principle discussed in the article to the specific factual situation in the case.¹⁵

As there is no medical evidence of record establishing a right shoulder condition causally related to the accepted March 14, 2020 employment incident, the Board finds that appellant has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a right shoulder condition causally related to the accepted March 14, 2020 employment incident.

¹⁴ *C.S.*, Docket No. 20-1354 (issued January 29, 2021); *D.T.*, Docket No. 20-0685 (issued October 8, 2020); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁵ *T.S.*, Docket No. 18-1518 (issued April 17, 2019); *W.C. (R.C.)*, Docket No. 18-0531 (issued November 1, 2018); *K.U.*, Docket No. 15-1771 (issued August 26, 2016); *Roger D. Payne*, 55 ECAB 535 (2004).

ORDER

IT IS HEREBY ORDERED THAT the December 8, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2021
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board